

## **REMARKS**

### **Applicant Information**

Please note that the Applicant has a new correspondence address and attorney of record:

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### **Drawings**

Formal drawings have been submitted to the patent office. Should the Examiner fail to receive the formal drawings by the time a decision for allowance is made, please contact the attorney of record and copies of the formal drawings will be provided.

### **Examiner's Response to Arguments**

The Examiner considers the remarks of the previously filed office action response moot in view of new grounds of rejection. Accordingly, some prior amendments have been negated by the new grounds of rejection. Thus, some limitations added by amendment have been removed since those limitations are unnecessary in view of the new grounds of rejection.

### **In the Claims**

#### **35 USC 112**

Claims 9 and 11 stand rejected under 35 USC 112. The Examiner states that claim 9 uses the indefinite term "the predetermined density." Claim 9 has been amended by adding the term "a predetermined density" to provide an antecedent basis to the claim, the same placing claim 9 in condition for allowance. Withdrawal of the rejection to claim 9 under 35 USC 112, and allowance of the same, is respectfully requested. The Examiner states that the phrase "time-delay" is uncertain. Claim 11 has been amended by deleting the term "time delay" to remove any indefiniteness created by the term "time delay." Withdrawal of the rejection to claim 11 under 35 USC 112 is respectfully requested.

### 35 USC 102

The Examiner rejects claims 11, 14, and 17 under 35 USC 102 as being anticipated by *McClain*, which, by implication under 35 USC 102, is said to teach each and every element of the invention as taught by the Applicant in claims 11, 14, and 17. *McClain* teaches an apparatus for applying a suntan lotion having a central neck enclosure. *McClain*, however, does not teach a method for applying a solution that is capable of producing a tan. In fact, the torso-sized unit of *McClain* is necessitated by the use of suntan solution (prevents a tan), which could damage eyes of a user. Thus, *McClain*, at most, should be only very narrowly read to apply to the present invention.

In any event, Claims 11 (and by implication, claim 14 which depends from claim 11) and claim 17 have been amended to clarify the invention by more clearly defining that the present invention generates the fog in the fog chamber, as is discussed in the specification on, for example, page 10, lines 15-25, and is supported by figure 3. This distinguishes the present invention from *McClain* since *McClain* generates a mist outside his chamber at mist nozzles 46a and 46b, and then uses a blower to blow the mist into the chamber through pipes. Accordingly, having distinguished the present invention from *McClain* in claims 11, 14 and 17, withdrawal of the rejection of claims 11, 14 and 17 under 35 USC 102 in view of *McClain* is respectfully requested.

### 35 USC 103

Claims 19 and 20 stand rejected under 35 USC 103 as being obvious in light of *McClain*. The Applicant will also address claims 11 and 17 here, since it is anticipated that the Examiner may also hold that claims 11 and 17 are obvious in light of *McClain*. As previously stated, *McClain* teaches a torso-sized apparatus for applying a suntan lotion (prevents tanning) having a central neck enclosure to prevent the user's eyes from being exposed to suntan lotion. *McClain*, however, does not teach a method for applying a solution that is capable of producing a tan. To reiterate, *McClain*, at most, should be only very narrowly read to apply to the present invention.

The Examiner states that *McClain* teaches a user control panel located on the outer shell, and thus it would be obvious to place the panel on a shell interior. The Examiner further states that this is merely a design choice and states that the specification is absent of a rational, or advantage, to support the use of the interior panel. The Applicant respectfully disagrees. The interior panel provides for user-control, as is discussed in, for example, page 10, line 25 through page 11, line 2, and page 12 line 6. The Examiner also rejects claim 20 under 35 USC 103 and states that installing a fan in the top of *McClain's* device would be obvious. The applicant respectfully disagrees. The use of a neck-accepting top and torso-sized body of *McClain* are necessary limitations of *McClain*, as stated in *McClain's* claim 1, and due to the device-limiting nature of suntan oil for spray applications (it can hurt a user's eyes). Not only does *McClain* not mention the use of a fan in his chamber to evacuate the chamber, the application of a fan to *McClain* would be more akin to a torture device, a medieval death device such as an iron maiden, or perhaps a decapitation device.

However, the mischaracterization of *McClain* can be easily explained by the fact that fundamentally, *McClain* is not related to the art of applying a solution that creates a tan--rather, *McClain* teaches applying a solution that prevents a tan. This subtle, but important distinction, leads to a very different set of design goals and thus, a very different set of designs. Interior user control is simply impossible in the art of *McClain* using presently available suntan lotions due to the possibility of eye damage occurring to the user. This explains *McClain's* open-top for a user's neck, and *McClain's* exterior controls.

Claims 1-7 stand rejected under 35 USC 102 (103?) as being unpatentable over *Laughlin* in view of *Sinclair*. *Laughlin* teaches applying a human skin coating, while *Sinclair* teaches a nozzle incorporating a fan-disk. The Applicant wishes to provide the Examiner with a serious evaluation of the combination of *Laughlin* with *Sinclair*. *Sinclair* does teach a fluid nozzle having a disk-fan. However, to combine *Sinclair* with *Laughlin* there must be some indication in either *Sinclair* or *Laughlin* that such a combination be made. When one reads *Sinclair*, there does not exist any mention of spraying a solution that tans human skin; when one reads *Laughlin*,

there is not a suggestion to use a special nozzle that incorporates a disk fan. Accordingly, there is not a suggestion in either *Laughlin* or *Sinclair* to combine the two.

Turning to the use of *Laughlin* to make the Applicant's invention "obvious", the Examiner states that *Laughlin* teaches each and every element of independent claim 1. *Laughlin* does teach using a tanning solution spray from a single linear pattern of spray-nozzles. However, *Laughlin* does not, as the Examiner asserts, teach holding a fog for a predetermined period of time. Such "holding" of the fog, instead of being "inherent" as the Examiner claims, makes no sense with *Laughlin* since *Laughlin* actually sprays the solution on a person. If the person being sprayed by *Laughlin* turns out of the path of the spray, they will not be coated--this is why the tube of *Laughlin* moves, and why *Laughlin* calls for a person to rotate. While the invention of claim 1 may expose the user to some solution via a spray, the invention contrasts with *Laughlin* by holding a fog (suspended droplets) to more uniformly coat a user while using less solution to achieve similar effects--the result is that the user does not need to move to be evenly coated. The fact that *Laughlin* does not address holding a fog illustrates that *Laughlin* did not anticipate the use of a held fog to coat a user with solution, and that a held fog was not obvious to *Laughlin*.

In addition, claims 1 has been amended to more clearly define the invention from *Laughlin* by adding the limitation that the invention of claim 1 produces a fog via a plurality of spray nozzles that are coupled to a plurality of stationary tubes, as is supported by figure 3, and by the discussion on page 10, lines 3 - 30. This differentiates the present invention from *Laughlin* who teaches a single, traveling tube (the travel of the tube is how he completely coats a person). Since *Laughlin* teaches away from a plurality of tubes, and teaches away from stationary spray-nozzles, *Laughlin* cannot be said to anticipate or make obvious the amended claim 1, or any claim depending therefrom. Accordingly, the examiner is respectfully requested to withdraw the rejections to claim 1, and any claim depending therefrom, under 35 USC 103, and allowance of said claim and those that depend therefrom, is respectfully requested.

In summary, independent Claims 1, 11, 17 and dependent claims 8, 9, 12, 13, and 16 are amended. Claims 8, 9, 12, 13, and 16 are now in condition for allowance as per Examiner's instructions. It is also believed that claims 1-7, 10-11 and 14-12 are also in condition for allowance, and allowance of the same is requested. Specifically, since independent claims 1, 11 and 17 are now in condition for allowance it is noted that each dependent claim is also in condition for allowance, and thus allowance of each dependent claim is also requested. If the Examiner has any other matters which remain, the Examiner is encouraged to contact the undersigned attorney to resolve these matters by Examiner's Amendment where possible.

Respectfully Submitted,

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*Signed on  
1st pg*

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

Please amend independent Claims 1, 11, 17 and dependent claims 8, 9, 12, 13, and 16 as indicated:

1. (Twice Amended) A method of generating a fog with a tanning solution, comprising:  
applying a predetermined pressure to the tanning solution; and  
passing the tanning solution through at least two tubes, each tube having at least a nozzle in the fog chamber such that as the solution leaves the nozzle a fog is generated[, the nozzle comprising at least a disk-fan].

8. (Amended) A method of generating a fog with a tanning solution, comprising:  
\_\_\_\_\_ applying a predetermined pressure to the tanning solution; and  
\_\_\_\_\_ passing the tanning solution through a nozzle such that as the solution leaves the nozzle a fog is generated; and

[The method of claim 1 further comprising the act of] receiving a predetermined program which varies the density of the fog over time.

9. (Amended) A method of generating a fog with a tanning solution, comprising:  
\_\_\_\_\_ applying a predetermined pressure to the tanning solution; and  
\_\_\_\_\_ passing the tanning solution through a nozzle such that as the solution leaves the nozzle a fog is generated, [The method of claim 1] at a predetermined density, wherein the predetermined density is user selected.

11. (Twice Amended) A tanning system that generates a fog with a tanning solution, comprising:  
a fog chamber having at least two tubes, each tube having at least a nozzle;  
a pump system in fluid communication with each tube in the fog chamber; and  
a control system coupled to the pump system[, the control system proving at least one function other than coin-receiving and time delay].

12. (Amended) ~~A tanning system that generates a fog with a tanning solution, comprising:~~  
~~\_\_\_\_\_ a fog chamber;~~

~~\_\_\_\_\_ a pump system in fluid communication with the fog chamber;~~

~~\_\_\_\_\_ a control system coupled to the pump system; and~~

[The system of claim 11 further comprising]

a computer system coupled to the control system.

13. (Amended) ~~A tanning system that generates a fog with a tanning solution, comprising:~~  
~~\_\_\_\_\_ a fog chamber;~~

~~\_\_\_\_\_ a pump system in fluid communication with the fog chamber; and~~

~~\_\_\_\_\_ a control system coupled to the pump system;~~

[The system of claim 11] wherein the control system comprises an electrical subsystem and a mechanical subsystem.

16. (Amended) ~~A tanning system that generates a fog with a tanning solution, comprising:~~  
~~\_\_\_\_\_ a fog chamber;~~

~~\_\_\_\_\_ a pump system in fluid communication with the fog chamber; and~~

~~\_\_\_\_\_ a control system coupled to the pump system;~~

[The system of claim 11] wherein the pump system comprises:

a pump coupled to a tanning solution container; and

a valve coupled between the control system and the fog chamber.

17. (Amended) A tanning system that generates a fog with a tanning solution, comprising:  
an outer shell;

a fluid frame disposed within the outer shell; and

at least one nozzle ~~in the fog chamber, and~~ in fluid communication with the fluid frame,  
the nozzle capable of turning a fluid into a fog by passing the fluid through an orifice at a  
predetermined pressure.